

Charter Commission Minutes

Amherst Charter Commission meeting of Wednesday, June 28, 2017, Police Station Community Room

Members present: Andy Churchill, Nick Grabbe, Tom Fricke, Mandi Jo Hanneke, Irv Rhodes, Diana Stein, Meg Gage (remotely)

Members absent: Julia Rueschemeyer, Gerry Weiss

Collins Center: Tanya Stepasiuk, Mike Ward

Agenda

1. Call to order, approve agenda, approve minutes (5 minutes)
2. Public comment (15 minutes)
3. Review and edit master draft language (all articles) (3 hours, 10 minutes)
4. Topics not reasonably anticipated by the Chair 48 hours prior to the meeting
5. Planning: future meetings, public feedback on final draft, and introductory letter (30 minutes)
6. Adjourn

SUMMARY: This meeting was devoted to technical drafting of various sections of the draft charter, working from the following documents:

- Master Draft - June 28, 2017
- Transition Article Draft – June 22, 2017

The work of this meeting is reflected in the subsequent drafts:

- Master Draft – July 7, 2017
- Transition Article Draft – July 3, 2017

Additional notes on aspects of the discussion follow.

Call to order.

Passed minutes (May 22nd and June 1st)

Article 3-2 Executive Branch

Powers and Duties

Discussing whether Town Manager should be Chief Executive Officer or Chief Administrative Officer.

Churchill: I prefer Administrative...

Grabbe: I prefer Administrative too.

Stepasiuk: Don't overthink it.

Fricke: (To Churchill) Tomayto/tomahto.

Consensus shows popular title is Chief Executive Officer.

Stepasiuk: Let's move on to this list of duties of the Town Manager

Churchill: Can you remind us where this list came from?

Stepasiuk: It's kind of an amalgamation. If there are some we feel are superfluous, feel free to point it out.

Hanneke: There are some I could find an equivalent in the current government act, and there are some I couldn't find an equivalent.

Stepasiuk: We might want to change the order of the duties. For now this is the order.

Hanneke: We had a request from HR Director to change "coordinate" to "direct."

Rueschemeyer: Did she say why she favors direct?

Hanneke: Role could be more than just “coordinate.”

Fricke: I don’t think we want to take coordinate out.

Stepesiuk: I mean the Manager certainly has that power.

Grabbe: Yeah I think coordinate is better here.

Consensus to move on.

Stepesiuk: Moving on to E

Stepesiuk: Facilitating work of town counsel in *directing* town policy.

Rueschemeyer: I’m curious how that relates to Q...I think that will be moved up.

Stepesiuk says to combine them (E and F).

O, E, F, Q related.

Stepesiuk: Do we want to keep them separate or combine them?

Churchill: We could combine them.

Hanneke: I think two would be good, we don’t need four.

Churchill: There are four [sections] that say keep the council informed.

Rueschemeyer: You could have a range...we could say something general in the introduction and spin off from there.

Stepesiuk: Okay I think I’ve got the gist of this. At least we’ve identified the ones we should put in that clump.

So E, F, O, Q, anything else?

Hanneke: G possibly?

Stepesiuk: We have the idea going there. In this sense it will take care of E and F, and maybe G.

Stepesiuk: To G: Managers responsibility to notify council of emergency. Council may meet to ratify public emergency.

Consensus to leave section as is.

Stepesiuk: J...

Hanneke: So just to – not clarify but to inform – town council has a J and K that does exclude town and libraries. I would reword it...”said entities”

Churchill: Intent is the same.

Stepesiuk: Up next, responsibility for purchasing all supplies...

Hanneke: I did the exact same phrase again.

Stepesiuk: Everyone else happy?

Yes

Stepesiuk: So we’re on L... compensation plan

Fricke: What does “by or under” mean?

Stepesiuk: let’s get rid of “under” ...any other edits or comments?

None.

Stepesiuk: Q is another we were going to combine.

Churchill: I have a question on “assist long term goals”--I’d like to see annual and long term goals.

Stepesiuk: That seems fine with me.

Churchill: The Manager is the implementer of the goals.

Stepesiuk: We could add something in...

Consensus get rid of everything after “and towns...”

Stepesiuk: Alright, R.

Fricke: Is it redundant, since there’s already supervising, directing...

Churchill: It makes it clear he can snoop wherever he wants, among Town staff.

Stepesiuk: V – building sense of community.

Rhodes: That one should be staff, residents, businesses, and government and non-governmental organizations. Reason – there's all kinds of orgs in this town (i.e. university).

Stepesiuk: W – to communicate with public by appropriate means.

Churchill: Can we say that somewhere else?

Stepesiuk: That one we wanted to keep broad.

Churchill: Do we need it? ... We have the state of town address.

Hanneke: I think taking it out would be fine.

Fricke: What this does broadly is authorize Town Manager to use resources to notify public.

Churchill: I agree. The value we wanted to enforce was that more communication is better. Regular communication with public is valuable.

Stepesiuk: Implying we don't just want you to communicate – we want it on a regular basis.

Stepesiuk: X

Grabbe: Seems like X + Y are more important.

Stepesiuk: This is going to get rearranged.

Hanneke: They should be grouped together (W, X, and Y)

Stepesiuk: If anyone has suggestions on how to reorganize this feel free to email...

Stein: I would be happier with "monthly" not an "empty" phrase like regularly

Grabbe: Didn't we used to have that?

Churchill: Given all we're asking the Manager to do...asking "monthly" (seems excessive)

Fricke: Wary of putting too much specificity in section about powers.

Stein: I have a feeling it's the kind of vagueness that gets you nowhere. It leads to "I wish the Town Manager communicated more"

Fricke: It's not a job description.

Stein: I say take it out and let the council deal with it.

Hanneke: I hear what you're saying but we don't want to make it (hard for council)

Consensus is to communicate "regularly" with public. Not specific calendar language.

Stepesiuk: Alright, we did the list. We want to get to Mandi's cross-referencing.

Hanneke could not find equivalents in Town Government Act: G, H, N, O, Q, S, U – Y.

Manager did everything else not mentioned other than P and R.

Churchill: That was select board?

Hanneke: That was select board. There were some things mentioned under Select Board that aren't mentioned here at all.

Water and Sewer commission

Currently Select Board

Hanneke: I don't know where that would fall.

Churchill: If Council is passing bylaws *they* should enforce it.

Looking for connection Hanneke and Churchill believe this may be part of Section B.

Hanneke: Next one was signing of bonds and notes. We don't have anything in here about signing.

Rhodes: That's an important one.

Hanneke: I couldn't really find a total equivalent.

Churchill: Wouldn't the Council be in charge?

Hanneke: It should be the Town Manager.

Stepesiuk: We can make that explicit in here.

Hanneke: Otherwise it's going to have to be president of council.

Rhodes: Um, yeah. It's kind of weird that – going back to school committee – everything that was borrowing - it was always signed by committee not superintendent.

Churchill: Replacing Town Meeting. We vote by 2/3rds majority.

Rhodes: If you aren't fiduciary, you have to be one that signs.

Churchill: How do other places do it?

Hanneke: Council already passed it by 2/3rds.

Rhodes: I just have a question: that the town is the fiduciary and not the council. Seems weird that you wouldn't have fiduciary unless Town Manager is considered fiduciary.

Hanneke: By voting as Meg said...the Manager implements borrowing by signing note.

Rhodes: would someone please look into legalese?

Stepesiuk: We'll make a note.

Ward: Chapter 40 section 17 (reads description)

Discuss treasurer, Manager, mayor, etc. signing of documents

Hanneke: Receive all warrants...

Sue, being sued, negotiate end to...

Fricke: Can you imagine another way it would work?

Hanneke: Council has to operate in open meeting. Council would have to be involved in funding of any supplement.

Stepesiuk: Instinct is put it with Town Manager.

Hanneke: Guess is default in general laws.

Ward googling other charters...

Hanneke: Town Manager has authority to prosecute or employ outside counsel if necessary.

Consensus to copy language 4.65

Stepesiuk: We will repurpose one of those

Hanneke: First off word "officers" is not above... which is fine except for in 2-11 we say Town Manager should refer who they desire to appoint as department heads – makes me concerned this appointment may be ratified by council.

When you read it in conjunction with 2-11...I wonder if we delete word "officers" out of 2-11.

Stepesiuk: I think that's appropriate.

Hanneke reads definition of officers.

Stepesiuk: I think we're going to include everything in 2-11 we want.

Hanneke: Just want to make sure catchall is not requiring Town Council approval of all.

Stepesiuk: Any comments/questions on A?

Stein: Wondering if we should spell out questions...

Hanneke: Only highlighted in last sentence.

Stein: Do we want to say anything about composition of search committee? I'd like a member of public in search committee.

Hanneke: I wonder if that's getting too specific. (many variations of department heads).

Maybe should reword "may establish" to "shall establish".

Consensus to reword.

Stein: Well "shall" is step in right direction. Still want member of public on search committees.

Churchill: You can lobby council for that.

Stein: Alright so leave it.

Fricke: We're on 2-11 then?

Rhodes: Most profound impact on town should be ratified.

Stepesiuk: Let's just clarify what we have in 2-11. Right now what's going on is that appointments made by Manager shall be effective in 14 days...Right now Town Council does have power to reject but they've got to do it quick.

Churchill: Pushback has been we have limited ability of Manager to hire whoever s/he wants.

Will probably limit number of times TC uses that power.

Stepesiuk: We may just want to change the word "ratification"

Hanneke: We could just say subject to section 2-11...shall conform with section 2-11....

Consensus: *Shall be subject to provisions of section 2-11.*

Ward: Call attention to feedback to council's role in hiring – ratification is common. Search Committee piece is more unusual. If you have both ratification and search committee it is two pieces.

Churchill: Council sets ground rules for what Search Committee looks for...

Stepesiuk: Manager appoints by merit, Search Committee can't say "you have to accept whatever [we say]".

Churchill: Diverse candidates...

Stein: Even with diverse pool there could be push to go for in-house candidate. I really feel Search Committee makes it more democratic.

Stepesiuk: On to C.

Do we want to call them "multiple member bodies"?

Hanneke: I had changed some of them.

Churchill: What is agency?

Hanneke: *reads definition.* Agency is larger.

You could say "multiple member bodies and agencies throughout."

Stepesiuk: The question is, do we want agency in there?

Fricke: I don't think that's what we're after.

Ward: Appointments to multiple member bodies?

Fricke: Same wording (2-11)?

Yes.

Stepesiuk: New diversity list from Hanneke, from Town Government Act.

Committee discusses wordings: preference vs orientation; color vs race/ethnic origin

Discussing over race wording...

Churchill: Should we say "diversity...including..."

Fricke: Including but not limited to?

Churchill: It's halfway through our meeting and we haven't finished one article yet. (7:28)

Rewording language allowing Town Manager to "appoint or designate" the Community Engagement Officer

Rhodes: is this a brand-new position or not?

Hanneke: We wanted to make it clear that it could be new or it could be assigned to an existing employee.

Stepesiuk: 3-5 compensation – Town Manager shall be compensated

We will set initial compensation in Transition section

Committee discusses terminated Manager's ability to request public hearing of why they were terminated.

Stepesiuk: Annual review of Town Manager

Hanneke: We had concerns this might violate law...

Stein: We brought concerns to attorney general...

Group discusses changes...

Break at 7:56 – moving on to Sections 5 and 7

8:06 Resuming with section 5-2

Stepesiuk: Happy with public forum.

Stein: Moving [April 1st] up to A.

Stepesiuk goes over rest of timeline...

Section B

Fricke wonders how to join finance subcommittee.

Hanneke: Would be at President's discretion.

Section C - Action by Town Council

Regarding proposed budget...

Hanneke: Steinberg thought we should include contractual obligations...

Don't know if that's something we want to do...

Stepesiuk: You could add it if you want it, I don't think it's necessary.

Ward: Would want to talk further with our colleagues.

Churchill: Why can't council increase budget?

Stepesiuk: It's different.

Hanneke: Without agreement of Manager...

Hanneke: Council has to adopt a budget – if they don't, it's automatically adopted.

Churchill: We're talking about a few different things here...

I'm surprised we're removing power from the legislative.

Churchill: This puts a great deal of power in the Town Manager's hands.

Hanneke: So what would happen if the Council didn't like something they could hobble it down to 0 or 1 dollar.

Churchill: Sounds like things would have broken down considerably in that case.

Hanneke: They would be under section 5-6 if something broke down.

Supplementary budget discussions...

5-6 Remove public hearing, keep public meeting

Hanneke: Steinberg believed to have option of resolutions...

Stepesiuk: Town Council shall establish bylaws...requirements

Council cannot vote to not approve budget.

Rhodes: Why vote?

Hanneke + Churchill: They can amend it.

Town Council can make recommendations.

Churchill: Don't want the Council coming up with big ideas for the budget at the last minute, I guess.

They could do a supplementary budget, though, with the Manager.

Section C

Hanneke: 120 days prior to fiscal year budget
Finance thought 4 months prior is ridiculous
Moves to coordinate with May 1, “not later than May 1st...”
Stepesiuk: As long as [Finance] thought that was reasonable...doable...

Stepesiuk: Questions on financial hearings...
Consensus to change to public “meeting”.

Participatory budgeting

Stepesiuk: Are we sure we want this in here?

Grabbe: Capital budget is 7 million?

Hanneke: It’s around 5-6 right now.

Hanneke wants to move into transition (believes commission is not qualified to determine specific amount). Move to section 10-9 “topics for study”

Committee discusses logistics of crafting budget...Churchill wonders if it should be in transition section...Fricke is inclined to put it into list of things to study. Rhodes believes it should be in transition “we need recommendations...to try to do it now – doesn’t make very much sense unless we have larger amount of study.”

Churchill: The reason we [carved out special section for rank choice voting] is that it was essential in how we wanted to craft our government.

It could be seen that a value of ours is citizen participation.

Stein: I strongly support that concept. If there was a piece [of the budget] that they could contribute to – it would be worth having.

Grabbe: You favor putting in a certain part of rank choice voting?

Stein: I think it’s a very important part.

Hanneke: I agree with Diana.

Consensus:

Churchill: We think it should be seriously considered – it will go in the transition section.

Stepesiuk: 5-10, Independent audit. Certified public accountant. Town Manager will provide sum of money to do it.

Hanneke: Do we want limit of years of using same accounting firm?

Ward: We haven’t seen that.

Might be better as bylaw.

Hanneke: Steinberg said we’ve had the same firm for a long time.

Ward: Not a huge field of municipal auditing firms.

Churchill: Would it give people comfort to know it’s in there?

Stepesiuk: I believe it would give a couple people some comfort.

Ward: If you didn’t put it in there it would probably default to the Town Manager.

Consensus to keep it in there.

Planning future meetings, getting public feedback on drafts, what sort of intro letter...

Stepesiuk: In thinking about next week, Marilyn cranky about timeline.

We are rewriting transition to put timeline in there.

Churchill: What do we have left?

Hanneke: 7, 8, 9 and 10.

Stepesiuk: Those are ones we’ve done a little more recently.

Hanneke: That could take us a while.

Stepesiuk: It’s not numbers.

Fricke: It’s a meeting.

Hanneke: We have 5 meetings before it's final.
We have to have two meetings next week.
Committee discusses dates of following meetings.

Churchill: Getting public feedback...

Hanneke: I'm not sure if we need to get public feedback now...we should come up with a form we can put online.

Stein: Let's say, for example, we get a lot of feedback saying "you got to change this next week," we're not going to change it next week.

Hanneke: Let's see when it's published what people say.

Rhodes: If you get a tremendous amount of feedback, do we change anything?

Hanneke: That's what we have to discuss.

Hanneke: We should have a meeting on what and how [to conduct hearing]

Rhodes: Whenever this hearing takes place, I can see a very vocal group with allies on this 2-year thing.

Stein: Or other things.

Hanneke: The other thing we need to discuss is...do we want to publish this document...that just includes this text, or do we want an introduction?

Tom will draft introduction by the 5th

Next meeting Monday 3rd. Transition section will be discussed again.

Meeting adjourned at 9:22

Respectfully Submitted,
Emmett Warren